REMARKS

This responds to the office action of 25 April 2008 in which claims 1, and 3-13 were pending and examined. Claims 1 and 3-13 were rejected under 35 USC 102(b) as anticipated by Noble (US patent 5,845,128.). This amendment revises claims 1, and 3 - 13. Claims 2 and 14-17 were priorly cancelled. Claims 1, and 3-13 remain for reconsideration.

Claims 1, and 3 - 13 were revised to overcome the Examiner's rejections and objections set forth in paragraphs 3, 5-7, 8, 9, and11-13 of the office action.

All rejections are traversed

Similarities and Differences between the Present Invention and Noble.

Noble and the Applicants' disclosure both relate to the generation successive versions of software. There are many differences between Noble and the Applicants' disclosure. Applicants' disclosure generates a new generic software release derived an existing software release. Noble is not interested in generic software. Noble is solely interested in the customization of new software releases.

Applicants modify an existing version of software in a build area and compare the modified software with existing generic software in the release area.

Applicants' figure 1 discloses known prior art. Applicants' figure 2 is a high-level block diagram of their invention. Figure 3 is a more detailed block diagram showing the apparatus used by applicants' to generate a new generic software release. Figures 5 and 6 are flow charts illustrating the process steps embodying the applicants' invention.

The Noble software is created for end users who require customized software. Noble's description relates to the apparatus and method steps required to achieve customization of his new software. Noble does not disclose the apparatus and method

steps required for the generation of a new release of his customized software. Instead Noble's starting point is based on the premise that an old version of a new release already exists. Noble's description relates solely to the generation of the customization changes required to for his new release. His disclosure relates to his customization facilities rather than to the apparatus and method steps required to generate new software.

Noble's figure 1 discloses a main memory 504 coupled a computer system bus 520. Also illustrated in his figure 1 is a conventional processor system 502 as well as mass storage system 508. Nothing in Noble's figure 1 is relevant to Applicants' disclosure.

Noble's figure 2 illustrates an old release file list 212 and a customization copier 210. Noble's figure 3 discloses an application subdirectory 200 <u>purchased from an outside vendor</u>. Element 200 includes an old release subdirectory 202 and a new release subdirectory 204. Noble's figure 3 is of no use to the Applicants, since it has its starting point that an old release 202 and a new release subdirectory 204 exist and are purchase from a vendor. Noble's figure 3 is of no relevance to the Applicants' invention, even if Noble element 202 could be assumed to be equivalent to Applicants' build area and Noble's element 204 could be assumed to be equivalent to the Applicants' release area. The Applicant's disclosure is directed to the specifics of the apparatus and method steps required to revise a software in applicants' build area 106, analyze it, compare it with software currently in the release area 108, and study the differences between the software in the build area 106 and the software in the release area 108. Applicant's disclosure is not limited to a mere "before and after" status as in Noble, but instead is replete with details as to how to use the applicants' apparatus and method steps to achieve their revision.

<u>The 35 USC 102(B) Rejections of Claims 1 and 3-13</u>

The rejection of claims 1 and 3-7 as anticipated by Noble is respectfully traversed. Noble is not anticipatory and does not teach all elements of applicants' claimed invention as required for 35 USC 102(b) rejections. Noble fails to meet the 35

USC 102(b) requirements an anticipatory reference must possess. A review of section 2131 of the MPEP is instructive. Section 2131.01 states that in order to anticipate a claim; a single primary reference must be found that teaches every element of the rejected claims. The well known "all elements" rule requires that the identical invention must be taught by the reference asserted to be anticipatory and must be in as complete detail as is contained in the claim being examined. <u>For anticipation, there can be no difference between the claimed invention and the reference disclosure.</u> No inference or conjecture permitted. <u>The reference disclosure must be understandable and enabling to a person of ordinary skill in the field of the invention</u>.

One skilled in the art <u>might possibly</u> be able to comprehend the Noble "before and after" results per figure 3; but such a person would not be able to determine without undue experimentation the elements and process steps of Noble that teach applicants' invention.

The Examiner's comments purport to identify the elements and process steps comparable to those in applicants' rejected claims. Applicants disagree and assert that the Noble material is not comparable or relevant to applicants' claimed elements. Noble's material identified by the Examiner cannot be understood since, at best, it comprises a discussion of the "before and after" results achieved by Noble. Noble describes his software prior to its being customized, followed by a description of the software after being customized. He does not describe with specificity and particularity the instrumentalities that needed to achieve his software customizations.

Applicants' embodiment is limited to the creation of a new release of <u>generic software</u>. After having achieved a satisfactory revision of the existing release in the build area, the Applicants' steps require the use of further facilities and method steps to transfer the modified generic software from the build area 106 to the release area 108 as a replacement for the existing prior version of the generic software release in the release area 108.

The apparatus and method steps required to achieve the transfer of a new generic revision from the build area 106 to the release area 108 includes the following claimed elements. A scan element 302 that determines the revised software stored in

the build area 106; the generation of an inventory file 310 using the scanned generic software in the build area 106; operating the inventory file 310 to compare software in the build area 106 with the prior version of the software in the release area 108; operating a software release information manager 300 to compare the build information in the inventory file with generic information comprising a current release of the files as stored in the release area 108; the software information release manager and install module 306 are configured to install the modified software from the build area 106 to the release area 108 to create a new generic software release.

Applicants' dependent claims further recite that the software release information manager comprises a release database coupled to the scan element and the inventory file; a verify element coupled to the inventory file to compare software information in the release area with the corresponding information in the build area; install element 308 coupled to the inventory file 310 copies software from the build area 106 to the release area 108; and the build area is configured so as to be used by the developer to modify or create new versions of generic software for distribution to the release area as a revision/replacement for the existing version of the generic software stored in the release area.

Applicants' invention amounts the revision of existing software in the build area followed by its replacement of existing software in the release area. The Applicants' invention is not limited the mere act of software creation followed by the use of the newly created software as a replacement for existing software. If nothing more than this were involved, this process of creation and revision could be accomplished by many different ways, such as shown as prior art in the applicants' figure 1.

Noble's system is directed to the provision of a new software release customized to the individual needs of each end users. Noble is not concerned with the steps required to modify existing generic version for a new generic release. Noble's figure 2 discloses an old release file list 212. Noble's figure 3 discloses an old release subdirectory 202 as well as a new release subdirectory 204. However, Noble figure 3 does not disclose the details of the apparatus and sequence steps required to modify the old release subdirectory 202 and transport it to the new release subdirectory 204.

The reason for this deficiency of Noble is that his apparatus of application 200 on figure 3 <u>was not invented or created by Noble, it was purchased from an outside vendor.</u> See Noble's column 6 lines 1-11. His figure 3 disclosure is not adequate for teaching the use of the system having an old release subdirectory 202 and a new release subdirectory 204. The instrumentalities and method steps not shown by Noble comprise the essence of Applicants' disclosed invention. Applicants' figure 1 discloses the use of a build area 106 followed by the manual transfer of the software from a build area 106 to release area 108. Applicants' invention has automated the prior art steps of figure 1.

<u>Claims 1 and 3-13</u>

Applicants' amended independent claim 1 recites details including a software release inventory file, a build area and a scan element. The recited structure of amended claim 1 is a not shown or taught by Noble. The columns and lines of Noble relied on by the Examiner have been studied and, to the extent they can be understood, have no relevance to the elements recited in amended claim 1. The following responds to the Examiner's comments.

The recited *build area* of claim 1 is followed by the details of the elements and functions of the *build area*. Applicants' do not agree with the Examiner's analysis. The Examiner cites the material in column 4 lines 45-65, column 5 lines 7-10, and column 6 lines 1-15 as being anticipatory. Applicants' disagree and assert that these portions of Noble do not teach how to achieve the recited *build area* of claim 1. The material at column 4 lines 45-65 does not teach the instrumentalities used by Noble to embody his invention. The material in column 5 lines 7-10 does not teach the details of the instrumentalities use by Noble and how he provides a virtual copy of an original file. This material does not anticipate or teach the corresponding elements recited amended claim 1.

The Applicants' *software release information manager* (SRIM) of claim 1 recites the details and functions of applicants' SRIM 300. The Examiner cites column 7, lines 5-67 and column 8, lines 1-60 in support of his rejection. Applicants disagree. Claim 1 recites details of the elements to which SRIM 300 is connected, as well as the functions

performed by these connections, together with the functions of SRIM 300 in copying files. The Examiner's cited material is inadequate. It only discusses the results achieved by Noble. Noble's material does not teach the details of the elements used by him in performing the functions of claim 1.

Claim 1 recites further details and functions of the SRIM including how it controls the operation of the inventory file and the scan element to effect a transfer of software from the build area to the release area. The Examiner cites the Noble material in Noble's column 8, lines 3-10. This material does not support the Examiner's comments. Noble does not teach the recited *scan element*. The cited Noble material fails to teach the elements recited in claim 1.

Claim 1 recites *an inventory file* that receives and stores information in the build area. This recitation is followed by further details of the functions performed by the *inventory file* under control of a *scan element* to categorize all files comprising the release area. The Examiner cites the Noble material of column 7, line 43 through column 8, and line 55. This cited material has been discussed above and fails to support the Examiner's position. It does not disclose material used by Noble to teach the functions of the Applicants' recited *inventory file*.

Claim 1 also recites a *scan element* followed by the details of the functions provided by the scan element, as well as the functions of the build area, followed by the functions and software comprising a new software release, as well as the functions of the scan element, and the functions required to of the scan element load necessary software into to a release database. The Examiner cites the Noble column 7, line 5 through column 8, and line 60 as being relevant to the recited SRIM material. The cited Noble material does not teach the instrumentalities used by applicants in performing the claimed functions.

The next element recited in amended claim 1 is directed to a comparison of *build information* in the *inventory file* and the release of software regarding a current release of software into the *release area*. The last element recited in amended claim 1 relates to *installing modified software* into a *release area* to create a new software release. It further recites the updating of software in a *released database* from the build the area in

the *inventory file* in response to the step of installing modified files as well as identifying the differences between the *build area* and the use *release area*. These elements are not taught by Noble. <u>Rather, as elsewhere mentioned in this amendment, Noble is exclusively related to changes in customized software.</u> Applicants are exclusively interested and directed to the generation of new generic software. <u>Nothing disclosed in the entirety of Noble is of any patentable interest whatsoever to applicants claimed modification of generic software.</u>

 The Examiner's attention is directed to that portion of Noble, which in column 6 lines 4 through 18 states in essence that the old release file 212 is generated by <u>a vendor's installed files. This information is received from an outside vendor and stored in that portion of Noble designated as new release 204 shown in figure 2 and shown in further detail in figure 4</u>. Noble does not teach the creation of new software information to be incorporated into a new customized release. In so far as it can be understood, Noble apparently relies upon an outside vendor to provide information for a new release as well as a prior release. Noble uses this vendor information to generate customized changes for customers requiring customization of their software. Noble is exclusively limited to the generation of customization after having received both the new and old versions of software from an outside vendor.

 Noble is solely interested in generating customized software. In the process of doing this Noble does not perform the functions taught by the applicants which are exclusively limited to the generation of new generic software for distribution and use by customers desiring the generic software rather then customize software.

 Dependent claim 3 is directed to a release area 308 and a scan element 302 as well as the inventory file 310 which stores information regarding files and directories in the build area. The columns and lines of Noble relied on by the Examiner have been studied and found to be of no relevance to the instrumentalities recited in amended claim 3. This Noble material includes that in column 6, lines 1 through 10 which exclusively relates to the generation of customized software. The applicants' disclosure is exclusively related to the generation of new releases of <u>generic software</u>.

 Dependent claim 4 is directed to details and functions of verify element 304. The

Noble material relied on by the Examiner has been studied and found to be of no relevance to amended claim 4. This includes the Noble's material in column 7, lines 1 through 50, column 6, lines 30 through 33 and 63 through 67 as well as column 7 lines 30 through 45. This cited material exclusively relates to the generation of <u>customized software</u>. The applicants' disclosure is related to the generation of new releases of generic software.

Dependent claim 5 is directed to the further details of Applicants' software release information manager 300 including the functions of install element 306 coupled to an inventory file 310. The Noble's material in column 6, lines 35 through 60 and column 5 lines 1 through 5 relied on by the Examiner has been studied and found to be of no relevance to amended claim 5. This cited material relates to the generation of customized software for end-users who cannot use generic software. Applicants' disclosure elates to the generation of generic software. <u>As elsewhere mentioned, applicants' disclosed embodiment does not relate to, disclose, or claim instrumentalities for generating customized software</u>.

Dependent claim 6 is directed to further details of a build area 106. Column 4, lines 40 - 55 lines of Noble relied on by the Examiner have been studied and found to be of no relevance to the recitation of in amended claim 6. This cited material as nothing whatsoever to do with the applicants' invention. Applicants' embodiment is exclusively related to the revision of information useful for creating a new generic software release. The cited Noble material is exclusively limited to the creation of new customization information for an end-user whose needs require the use of customized software. It is respectfully suggested that the Examiner review claim or 5 lines 60 through 68 which describe in detail the operation of Noble for customizing a new software release. As shown on flow chart figure of Noble is related to the creation of customized information for a new release. Noble does not disclose the creation of non-customized software for a new release. The applicants' disclosure is inventively different in that it is entirely limited to the generation of generic software for a new software release.

Dependent claim 7 characterizes the types of information that may embody the identified differences between old and new software. The columns and lines of Noble

relied on by the Examiner have been studied and found to be of no relevance to the instrumentalities recited in amended claim 7. The cited material in column 6, lines 60 through 63 of Noble relates to customized files. Nothing in Noble, including the Examiner cited material is of any interest whatsoever to the material recited in dependent claim 7.

Independent claims 8 and 13 are comparable to claim 1 and differ from the Noble for the same reasons stated regarding claim 1. No further discussion is necessary.

Dependent claims 2-7 and 10-12 should be inherently allowable as including the limitations of their independent claims 1, 8, and 13 which are believed to be allowable.

The Examiner is respectfully requested to call if the prosecution of the application can be expedited by so doing.

Respectfully submitted,

Date: <u>24 June 2008</u>   <u>   /Donald M. Duft/   </u>

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